

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 18928 of 2001

Between:

1. A. Narasimhulu, S/o. A.Ranganatham,
in Archarya N.G. Ranga Agricultural University (ANGRAU), at Mahanandi In
Kurnool District, R/o. Kurnool (Mahanandi).
2. Smt. V.Ranganayakamma, W/o. K.G.K.Prasad,
Central Library, Rajendranagar, Hyderabad.
3. R. Mohan Naidu, S/o. Chinnaaswamy Naidu,
Regional Library, Agriculture College, Tirupathi.
4. K. Krishna Reddy, S/o. K.Changa Reddy,
(ANGRAU), Regional Library, AG.College, Tirupathi.
5. Smt. M.Sarojini Devi, W/o.D. Shanikukha Rao,
Regional Library, AG. College, Bapatla.
6. N. Bhaskar Rao, S/o. N.Sarabha Raju,
Central Library, Rajendra Nagar, Hyderabad.
7. P. Ramakrishnaiah, S/o. Pitchaiah,
Central Library, Rajendranagar, Hyderabad.
8. Smt. K.Sarojini Devi, W/o. T.Ramesh,
Home Science College, Hyderabad.
9. S. V. Sambasiva Rao, S/o. Koteswara Rao,
Regional Library, Ag. College, Bapatla.
10. A.V.S.S. Naga Raju, S/o. Nageswara Rao,
Central Library, Rajendranagar, Hyderabad.
11. M. Hanumantha Rao, S/o. M.Thimmappa,
Agricultural College, Mahanandi,
Kurnool District.
12. P.V. Ramesh, S/o. Prasasham,
NTR Veterinary College, Gannavaram.
13. Faiyaz Ahmed, S/o. Ahmed Ali,
Central Library, Rajendranagar,
Hyderabad.
14. K. Purushotham, S/o. Ramulu,
Central Library, Rajendranagar,
Hyderabad.

15 A.K. Ranga Sai, S/o. A.Suryanarayana,
Regional Library, Agricultural College,
Bapatla, Guntur District.

..... PETITIONERS

AND

- 1 Acharya N.G.Ranga Agricultural University, Rep. by its Registrar,
Rajendranagar, Hyderabad.
- 2 Government of Andhra Pradesh, Rep. by its Principal Secretary to Government,
Agriculture & Cooperation Department, Secretariat Buildings,
Hyderabad-22.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of Writ of Mandamus:- (a) declare the action of the 2nd Respondent in not approving the pay scales proposed to be applied by the 1st Respondent vide proc. No. 1177/IA.H2/1993 dt. 21-07-1993 with respect to the 4 leftover categories as arbitrary, illegal, and violative of Articles 14 and 16 of the Constitution of India; (b) direct the 2nd respondent to approve the pay of the petitioners by applying Schedule - II Pay Scales of 1986 revised pay scales with monetary benefit since 01.07.1986, as fixed by the 1st Respondent in their proceedings No. 1177/IA.H2/1993 dt. 21.07.1993. (c) Direct the 2nd Respondent to grant the benefit of placement in the revised pay scales of 1986, 1993 & 1999 to the petitioners and to fix their pay in the Second Revised Pay Scales treating them as entitled to have the benefit of pay fixation made by the 1st Respondent in Schedule - II Pay Scales of 1986 Revised Pay Scales; and all consequential benefits; (d) Direct the respondents to extend the benefits like qualification linked increments to the petitioners as are applicable to the employees of other Public Libraries and pass such other orders.

Counsel for the Petitioner: MR.NUTY RAM MOHAN RAO

Counsel for the Respondent No.1: B. Siva Reddy

Counsel for the Respondent No.2: GP FOR AGRICULTURE

The Court made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 18928 of 2001

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ORDER:

This writ petition is filed seeking to declare the action of the 2nd respondent in not approving the pay-scales proposed to be applied by the 1st respondent vide proc.No.1177/IA.H2/1993 dated 21.7.1993 as illegal and arbitrary and to direct the respondents to extend the benefits like increments etc. to the petitioners as are applicable to the employees of other Public Libraries.

The brief facts that are necessary for the disposal of this case are as follows:

The petitioners are occupying one or the other posts in the APAU Library Service. When the APAU was constituted by an Act in 1963, the services of all the employees working in the State Government and the Departments of Agriculture and Animal Husbandry & employees of Universities like Sri Venkateswara University & Osmania University, stood transferred to the respondent university. The 1st respondent in order to apply the revised scales to its employees had submitted proposals to the 2nd respondent vide Letter No.73910/BG.II/86 dated 8.1.1987 and the 66 categories of posts were brought within the purview of Schedule-II pay scales vide G.O.Ms.No.78 dated 30.3.1998. Later on, 15 more cadres out of the remaining cadres were covered vide G.O.Ms.No.287 dated 3.12.1991. Thus, there are 32 more cadres which are yet to be covered by the Schedule-II pay scales and the 4 cadres viz., Categories I, II, III and IV of the Library Services to which all the petitioners belong are within the 32 left over categories. The pay scales were again revised w.e.f. 1.4.1993. However, contrary to the 1986 revision, all the cadres to which the petitioners belong were allowed to draw Schedule-II pay scales w.e.f. 1.4.1993 on par with the Government employees and the petitioners were accordingly drawing revised pay scales from February 1993 onwards pending approval by the Government. But, the 2nd respondent ordered

recovery for period February 1993 to April 1994 from the arrears payable to the petitioners. However, some other persons who belong to the 32 aforementioned left over categories challenged the order of the 2nd respondent to effect recovery through W.P. 32117 of 1997 before this court and obtained status quo and the matter is still pending. While so, the pay scales were again revised in the year 1999 and this has resulted in an anomalous situation. As the 1986 pay scales were not applied to the petitioners and the 1993 pay revision was applied, the petitioners were placed in the minimum of the time scale in the revised pay scales in 1993. The action of the 2nd respondent in not applying the 1986 pay scales but applying the two revisions in 1993 and 1999 has no basis in law and that the action of the respondents in treating the petitioners as a different class from the other non-teaching staff of the 1st respondent university is violative of Articles 14 and 16 of the Constitution. Hence the writ petition.

The 1st respondent filed counter affidavit admitting that all the petitioners are working in the 1st respondent university in one or other posts of Library Services and they are governed by APAU Library Service Regulations issued vide Proc.No.1023/SC/82 dated 8.11.1982. It is further stated that as the petitioners were not transferred from State Government Departments prior to joining the 1st respondent university and they are appointed by the 1st respondent university itself, the question of getting benefits as applicable to Government servants including pay revision does not apply to the petitioners. The Government has treated the petitioners as a different class from the other non-teaching staff, but the 1st respondent has tried to apply the Schedule II pay scales to the petitioners, but no positive orders have come from the Government. Recently the Government has constituted an anomalous committee to review the anomalies arisen in the revised pay scales and this University has addressed to Chairman, Anomalies Committee, through Lr.No.29310/Ser.V/2001 dated 13.7.2001 and pursuing the

matter regarding the 32 left over categories. Unless the Government issues concurrence for implementing the Schedule II pay scales to the petitioners herein, the University can't implement pay scales to the petitioners and if the Government approves the said proposal, the benefit will be extended to all the employees including these petitioners and hence the writ petition is liable to be dismissed.

The 2nd respondent also filed counter stating, *inter alia*, that based on the recommendations of the anomalies committee the Government issued orders in G.O.Ms.No.287 dated 3.12.1991 assigning Schedule II for only 15 categories of non-teaching employees of the University. Consequent to the issuance of the orders, Schedule II pay scales could not be extended to 32 categories of posts. The Board of Management of the University at its meeting held on 27.3.1992 resolved to address the Government for rectifying the anomalies of these 32 left over categories of posts for assigning schedule II pay scale. The Pay Revision Committee rectified the anomalies for similar categories of the other Universities but in the case of 1st respondent university they have not rectified for 32 left over categories. However, during the course of meeting held with representatives of Non-Teaching employees during 1992 it was decided to implement schedule II pay scales to the left over categories without arrears pending receipt of concurrence from Government. The petitioners' pay fixations were made subject to approval of the Government concurrence only. The 1st respondent University has extended the 1986 pay scales to the petitioners pending approval of the Government and accordingly further extended later two revisions in 1993 and 1999, but the Government has examined the issue and negatived. Hence the writ petition is liable to be dismissed.

It is contended by the learned counsel for the petitioners herein that the action of the 2nd respondent in not applying the pay scales of 1986 but applying the two revisions in 1993 and 1999 has no basis in the eye of law. As a matter of fact the pay revision

committee also rectified the anomalies in respect of similar categories of persons working in the other universities and other departments and therefore there is inequality in not applying the 1986 pay scales and that there was total discrimination in applying the pay scales to the similarly situated persons and hence he prays to allow the writ petition.

On the other hand, it is contended by the learned standing counsel for the 1st respondent that in fact the 1st respondent vide its proceedings dated 4.2.1993 and 21.7.1993 issued orders for implementation of Schedule II pay scales of 1986 to the left over 32 categories of employees subject to approval by the 2nd respondent and it is for the 2nd respondent to approve the same and if the 2nd respondent approves the Schedule II pay scales of 1986 to the petitioners, the same will be implemented.

On the other hand, learned Government Pleader appearing for the 2nd respondent contended that the 1st respondent University cannot implement the Schedule II pay scales to the petitioners; that the 1st respondent sent the proposals to the Government to rectify the disparities of 32 categories and the Government examined the issue and negatived the same and therefore the petitioners are not entitled for Schedule II pay scales of 1986 and hence he prays to dismiss the writ petition.

The 1st contention of the learned counsel for the petitioners is that there is inequality in not applying the 1986 Schedule II pay scales to the petitioners whereas the same benefit is extended to all the employees of other Universities and the Government employees. To claim relief on the basis of equality, it is for the claimants to substantiate a clear-cut basis of equality and resultant hostile discrimination before becoming eligible to claim rights on par with other group vis-à-vis the alleged discrimination. The discrimination if any must pass the test of reasonableness so as not

to fall on the touchstone of Article 14. The discrimination if any can arise as between the persons who are similarly, if not identically, situated.

The Government of Andhra Pradesh vide G.O.Ms.No. 288 Finance and Planning Department dated 17.11.1986 issued orders revising the pay scales for II Schedule for the Government employees. The 1st respondent approached the Government by addressing a letter for extending the revised pay scales of 1986 to its employees. The Government in the first instance issued orders in G.O.Ms.No. 25 Finance & Planning dated 11.2.1988 only approving the revised pay scales of Schedule II to the non-teaching employees of the 1st respondent university. Again the 1st respondent requested the Government to reconsider the orders and extend the pay scales of Schedule II to its employees, as the same has been extended during the revision of 1986 pay scales. In consideration of the request of the 1st respondent, the Government issued orders dated 30.3.1988 in respect of these common categories of non-teaching staff assigning Schedule II pay scales. The Government also indicated in the said order that the categories which do not find place therein the matter will be referred to the anomalies committee. A committee was constituted to examine various categories of posts. Basing on the recommendations of the anomalies committee the Government issued orders in G.O.Ms.No. 287 Finance and Planning (FW PRC I) Department dated 3.12.1991 assigning Schedule II pay scales only for 15 categories of non-teaching employees of the University. Consequent to issuance of the said orders, Schedule II pay scales could not be extended to the 32 categories of posts. The left over 32 categories include four categories, namely, Categories I, II, III and IV of Library Services to which all the petitioners belong. As a matter of fact, the Board of Management of the 1st respondent-University at its meeting held on 27.3.1992 resolved to address the Government for rectifying the anomalies of these 32 left over categories of posts for assigning Schedule-II pay scales. The Government by its letter dated 1.8.1992 directed the 1st respondent-

University to refer the matter to the Pay Revision Committee. The 1st respondent represented the matter before the Pay Revision Committee vide its letter dated 4.9.1992 for consideration. It is not disputed before this court that in case of other Universities and other departments the anomalies for similar categories were rectified by the Government whereas in the case of 1st respondent the Government has not rectified for 32 left over categories in respect of proposals submitted by the University to the anomalies committee. As a matter of fact, the University also decided to implement the Schedule-II pay scales to the left over other categories without arrears pending receipt of concurrence from the Government and issued Proceedings No.183/93 dated 4.2.1993 and Proc.No.1177/93 dated 21.7.1993. The said proceedings were issued subject to approval of the same by the Government and the petitioners' pay fixations were made subject to approval of the Government concurrence. But thereafter neither the Pay Revision Committee nor the Government taken any action in pursuance of the recommendations of the anomalies committee and also the recommendations made by the 1st respondent-university. On the other hand, in the counter affidavit the 2nd respondent stated that the Government has examined the issue and negatived. There is no rational basis for negating the proposal of the anomalies committee and also the 1st respondent. Whenever there is a revision of pay scales, that is to say, in the years 1986, 1993 and 1999, the pay scales have been extended to the petitioners. Having extended the pay scales whenever there is a revision to the employees of the 1st respondent, there is no basis or any reason of whatsoever in not extending the same benefit when the revision of pay scales took place in the year 1986. Even in the year 1986, the Schedule-II pay scales have been extended to the employees who are similarly situated as that of the petitioners of all the Universities in the State of Andhra Pradesh and also the Government departments. So, there cannot be any discrimination in respect of two sets of similarly situated persons. There is no intelligible difference for the employees working in the other

Universities and the employees working in the 1st respondent-University with regard to the nature of duties and functions. What is the object that is sought to be achieved in not implementing 1986 Schedule II of pay scales and not extending the same to the petitioners has not been stated in the counter affidavit filed by the 2nd respondent. Therefore, the action of the 2nd respondent is clearly hit by Article 14 of the Constitution of India and there is a discrimination in not extending the Schedule-II pay scales of the year 1986. As a matter of fact, learned counsel for the petitioners contended that if the same is extended to the petitioners, they will not claim any monetary benefit from the year 1986 onwards and the pay scales of the petitioners have to be fixed notionally. There is no other reason for not extending 1986 Schedule-II pay scales to the petitioners and it is a clear case where the Government has discriminated in extending the pay scales. The 1st respondent-University addressed a letter to the Government and at the instance of the 1st respondent an anomalies committee has been constituted and the committee also submitted a report to the Government for rectifying the anomalies for these 32 left over categories of posts for assigning Schedule II pay scales where under the posts of the petitioners admittedly belonged to these left over 32 categories.

Hence this writ petition is allowed directing the 2nd respondent to take steps to approve the pay scales proposed by the 1st respondent vide proceedings dated 21.7.1993 with respect to the 4 left over categories and approve the pay scales of the petitioners by applying Schedule-II pay scales of 1986 without any monetary benefits from 1.7.1986 but after applying Schedule-II pay scales of 1986 fix the pay of the petitioners in the revised pay scales of 1993 and 1999 notionally. The said exercise shall be done within a period of four months from the date of receipt of a copy of this order. Insofar as the claim of the petitioners to extend the benefits like qualification linked increments to the petitioners as are applicable to the employees working in other public libraries, the same cannot be

given in view of the fact that there is no factual foundation with regard to the fact that the functions and duties of the employees of those public libraries are equal to that of the employees like the petitioners. In the circumstances, no costs.

K.C. Bhanu, J.

Date: 05--07—2005.

MVB.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki Acting Chief Justice on this Tuesday the Fifth day of July Two thousand and five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Registrar, Acharya N.G.Ranga Agricultural University,
Rajendranagar, Hyderabad.
- 2 The Principal Secretary to Government, Government of Andhra Pradesh,
Agriculture & Cooperation Department, Secretariat Buildings, Hyderabad-22.
3. 2 CD copies.